

REMARKS

I. Status of the Subject Application

At the outset, Applicant wishes to express appreciation to Examiner Horton for determining that the subject application contains patentable subject matter.

Claims 1, 4-24, 27-37, 42, 43 and 45-49 are pending in the subject application. Claims 1, 4-20, 22-24, 27-36, 42, 43, and 45-49 are allowed. Claims 21 and 37 stand rejected. In the present Amendment, Applicant has amended claim 37.

II. The Rejections Under 35 U.S.C. § 102(b)

Claim 21 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,784,850 to Elderson. The Official Action provides that “Elderson discloses the use of a stud bridging/spacing system including a plurality of spaced apart studs (14) having a web (18); wherein the system comprises a means (16) for spanning the webs (18) of studs (14) and a means (50) for engaging the webs (18) of the studs (14). The means (16) for spanning the studs is V-shaped and the means (50) for engaging the studs (14) is also V-shaped in that the means (50) is widened at the mouth and is narrower closer to the opening (44).”

Responsive to this rejection Applicant respectfully submits that claim 21 recites in part:

means for engaging the webs of the at least two spaced-apart studs, said means for engaging having a substantially V-shaped cross-sectional shape and being **removably affixable** to said means for spanning **in a plurality of locations therealong**.

Claim 21 (emphasis added). As can be seen from that passage, the means for engaging is removably affixable to the means for spanning in a plurality of locations. The means (50) of Elderson as identified in the Official Action is not removably affixable to the means for spanning

(16). The mouth 50 of the notches 26' is not ~~removably affixable~~ as recited in claim 21. See Figure 5 and column 6, lines 1-19 of Elderson. The notches and mouths are cut or otherwise formed into member 16; their locations along member 16 are fixed. Accordingly, Elderson does not anticipate the subject matter of claim 21.

Claim 37 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Elderson. The Official Action provides that "Elderson discloses the use of a wall arrangement inherently including a first vertical surface means (the wallboard), a second wall means (14) extending perpendicularly thereto and having a web (18) and an opening (22), a means (16) for spanning the webs (18) of the studs (14), and a means (48) for attaching the means (16) for spanning studs (14)."

Responsive to this rejection, Applicant has amended claim 37 to clarify that the means for attaching is for attaching an end of the means for spanning to the first vertical surface means. Applicant submits that Elderson fails to disclose any additional means for attaching the means for spanning to a vertical surface - apart from the means for engaging the webs of the studs.

Elderson provides:

Preferably, the outer corners of the opposed flap portions are flared slightly out of the plane of the side portion to form slightly outturned ears 48 that define therebetween a widened mouth 50 **for receiving and guiding the web of the stud 14** into the narrower throat section of the slot portion 42.

Column 6, lines 14-19 of Elderson (emphasis added). The Official Action fails to indicate how elements 48 and 50 of Elderson affix element 16 to the wallboard. Elements 48 and 50 cannot function as the recited means for retainingly engaging and also the recited means for attaching the spanning means to the vertical surface. Accordingly a case of anticipation has not been established with respect to claim 37.

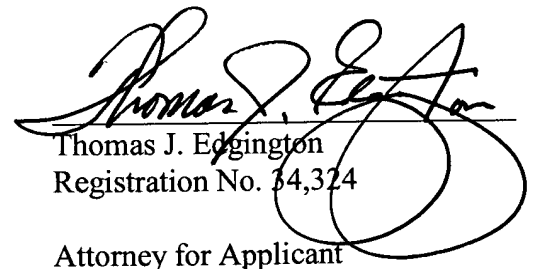
III. Request For Acknowledgement of Priority Claim

As set forth on page 1 of the subject application as originally filed, the subject application claims priority from U.S. Provisional Patent Application Serial No. 60/229,583, filed August 31, 2000. To date, none of the Official Actions have acknowledged that priority claim. Accordingly, such formal acknowledgement is respectfully requested.

IV. Conclusion

Applicant submits that all of the pending claims are in condition for allowance. Accordingly, reconsideration and withdrawal of the rejections in the Official Action and passage to allowance of all the pending claims at an early date are earnestly solicited. However, if the Examiner has any remaining concerns regarding Applicant's present Amendment, she is invited to contact the Applicant's undersigned attorney at the telephone number listed below so that those concerns may be expeditiously addressed.

Respectfully submitted,


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